Public Notice

US Army Corps of Engineers
Louisville District ®

Public Notice No.	Open Date:	Close Date:
LRL-2014-664	26 Aug 2015	25 Sep 2015

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Todd Williams CELRL-OPF-S
845 Sassafras Creek Road
Sassafras, KY 41759
Email: lrl.regulatorypubliccomment@usace.army.mil Phone: 606-642-3446

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act.

APPLICANT: Alma Land Company
750 Town Mountain Road
Pikeville, Kentucky 41501

AGENT: P&A Engineers and Consultants, Inc.
31 Torchlight Road
Louisa, Kentucky 41230

LOCATION: The project area is located approximately 1.5 miles northeast of the junction of Kentucky Routes 1426 and Town Mountain Road in Pike County, Kentucky in Ferguson Creek and its tributaries.

PURPOSE: To construct a commercial development of approximately 56.6 acres containing both retail and residential space.

Latitude: 37.4985° N
Longitude: -82.4900° W
7.5 Minute Quad: Millard

DESCRIPTION OF WORK: Alma Land Company (Alma) proposes to construct a commercial & residential development of approximately 56.6 acres along Ferguson Creek and its tributaries in Pike County, Kentucky. Ferguson Creek is a tributary of the Levisa Fork of the Big Sandy River. Alma proposes to impact 5,992 linear feet (1,464 EIUs) of “waters of the United States (U.S.)” for this commercial & residential development. In order to create a level area for this project, Alma would cut along the contour and remove material from the surrounding hill slope. The total volume of fill material would be approximately 4,013,674 cubic yards. The project proposes to permanently impact 2,129 linear feet of perennial stream(306 EIUs), 3,012 linear feet of intermittent stream(685 EIUs) and 851 linear feet of ephemeral stream(473 EIUs).

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: The applicant has conducted an alternatives analysis. The Ferguson Creek watershed has been impacted in the past or is currently being impacted by various development activities, mining, logging, gas exploration/transmission, road construction, and creation of grassland and pastureland areas. Other potential locations that were evaluated in the design process would cause larger amounts of impacts to “waters of the U.S.”, the land was not available, or the cost was prohibitive. Criteria considered when choosing a suitable location included availability of land, proximity to Pikeville, and practicability for all aspects of the project.

The applicant proposes to compensate for unavoidable stream impacts by off-site permittee responsible stream restoration and enhancement on Lick Creek and Long Branch of Lick Creek in Martin County Kentucky. Lick Creek is a tributary of the Levisa Fork of the Big Sandy River. Proposed Restoration and enhancement activities would include 2,480 linear feet of perennial stream and 1,370 linear feet of intermittent stream. To ensure that the proposed mitigation is successful, the mitigation site would be monitored for a period of 5 years with monitoring reports submitted to the District annually. Should the mitigation not prove successful, the applicant proposes to either purchase credits from a mitigation bank, if one is available, or pay in-lieu fees to mitigate for impacts from the proposed development.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant must apply for State certification from the Kentucky Energy and Environment Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in Accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider

this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered

in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at http://www.lrl.usace.army.mil/Missions/Regulatory.aspx. All comments regarding this proposal should be addressed to Mr. Todd Williams; CELRL-OPF-S at the address noted above and should refer to the Public Notice Number LRL-2014-664.

If you desire to submit your comments by email, you must comply with the following:

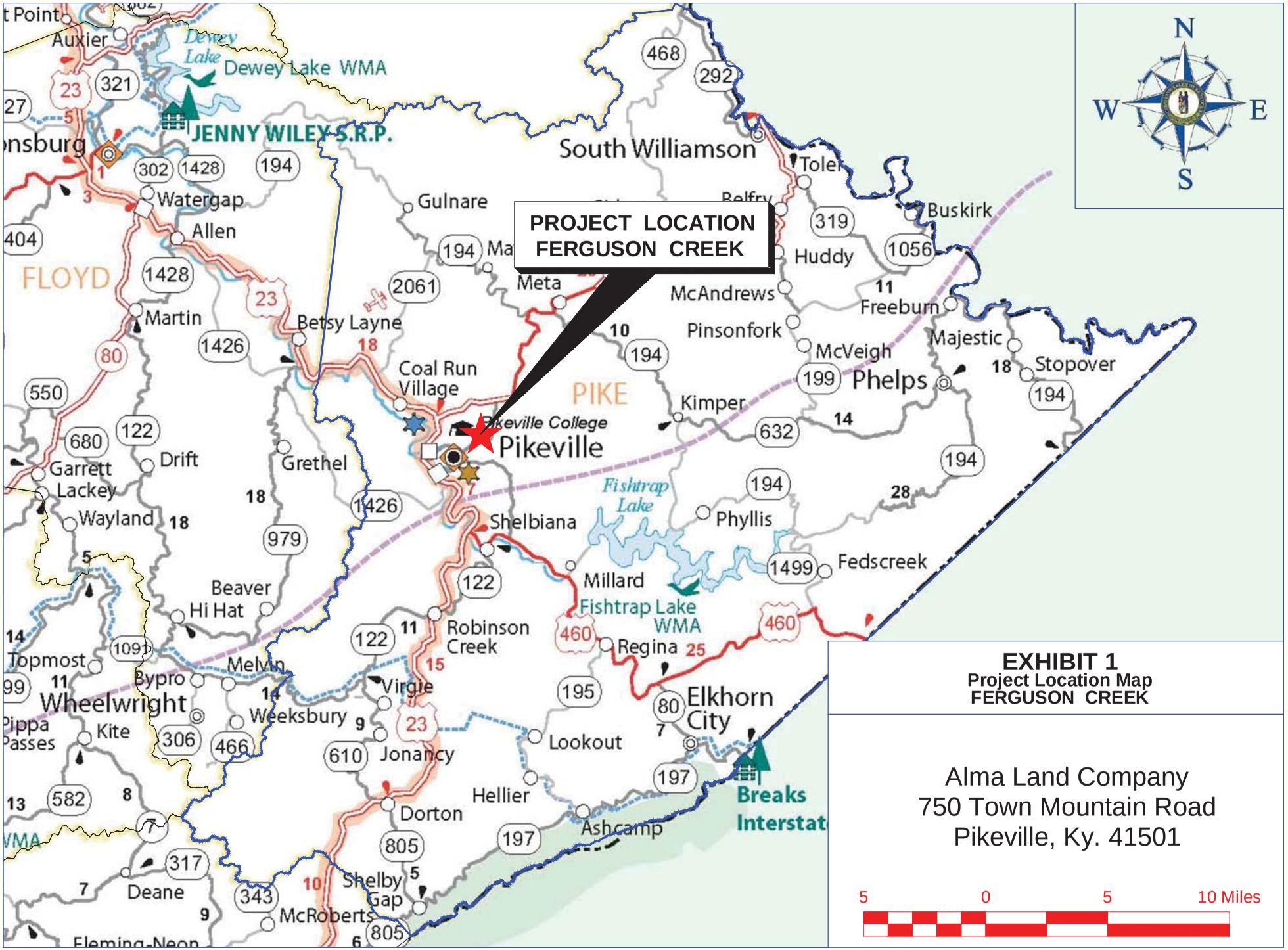
a) In the subject line of your email, type in ONLY the Public Notice ID No. LRL-2014-664.

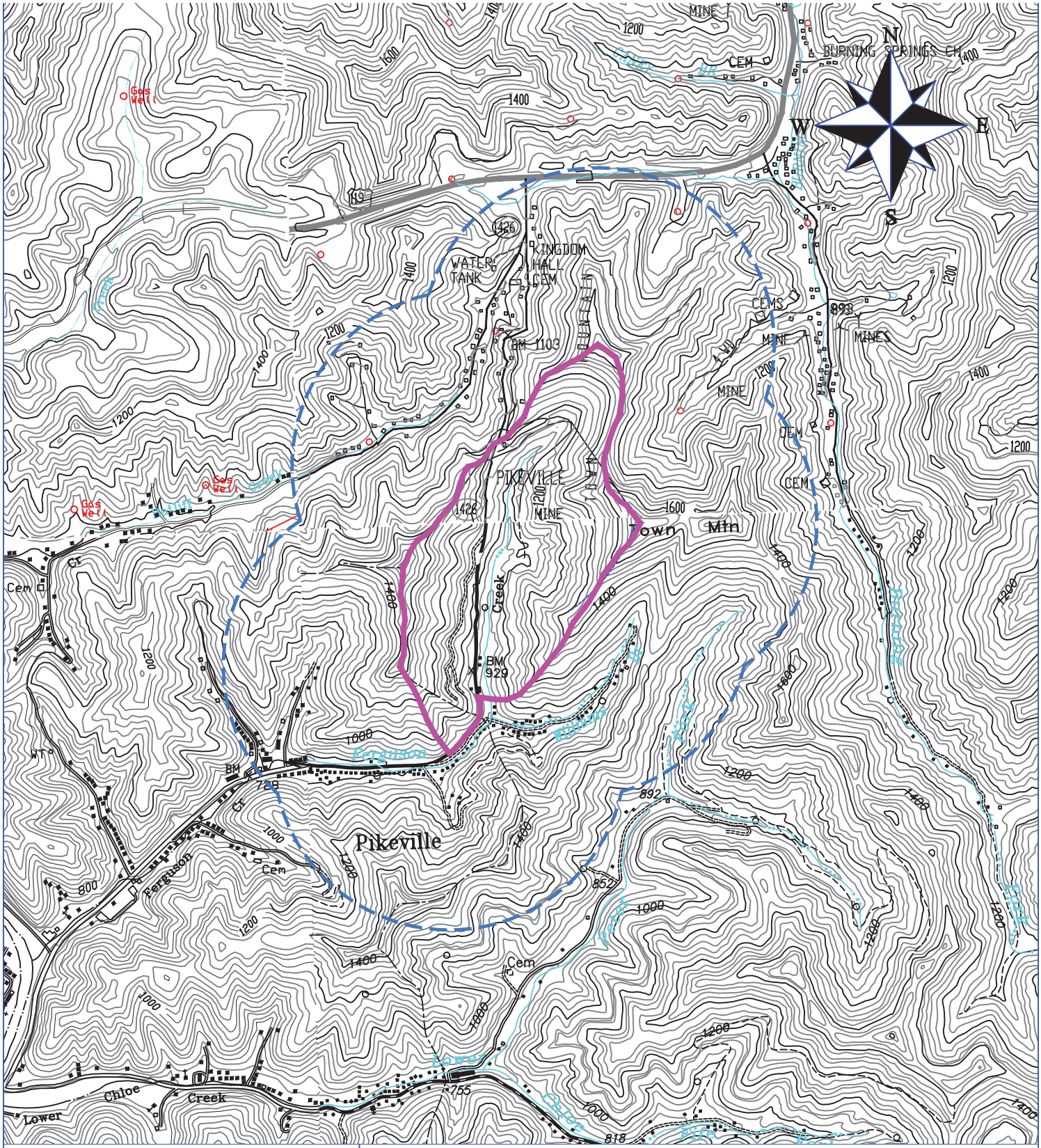
Example:
Subject: LRL-2014-664

b) Provide your physical mailing address and telephone number.

c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil.

d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.


PROJECT LOCATION
FERGUSON CREEK
N
W
E
S
JENNY WILEY S.R.P.
Dewey Lake WMA
Fishtrap Lake WMA
Breaks Interstate
FLOYD
PIKE
Pikeville
Pikeville College
South Williamson
Watergap
Allen
Martin
Betsy Layne
Coal Run Village
Gulnare
Meta
McAndrews
Huddy
Buskirk
Freeburn
Pinsonfork
McVeigh
Majestic
Stopover
Phelps
Kimper
Garrett
Lackey
Drift
Grethel
Wayland
Shelbiana
Fishtrap Lake
Phyllis
Fedscreek
Millard
Regina
Elkhorn City
Beaver
Hi Hat
Robinson Creek
Topmost
Bypro
Melvin
Wheelwright
Weeksbury
Virgie
Jonancy
Lookout
Hellier
Dorton
Ashcamp
Kite
Deane
Shelby Gap
McRoberts
EXHIBIT 1
Project Location Map
FERGUSON CREEK
Alma Land Company
750 Town Mountain Road
Pikeville, Ky. 41501
5 0 5 10 Miles



LEGEND

PROJECT BOUNDARY

HALF MILE RADIUS

EXHIBIT 2
FERGUSON CREEK

DATE: 07/24/14

SCALE: 1"=2000'

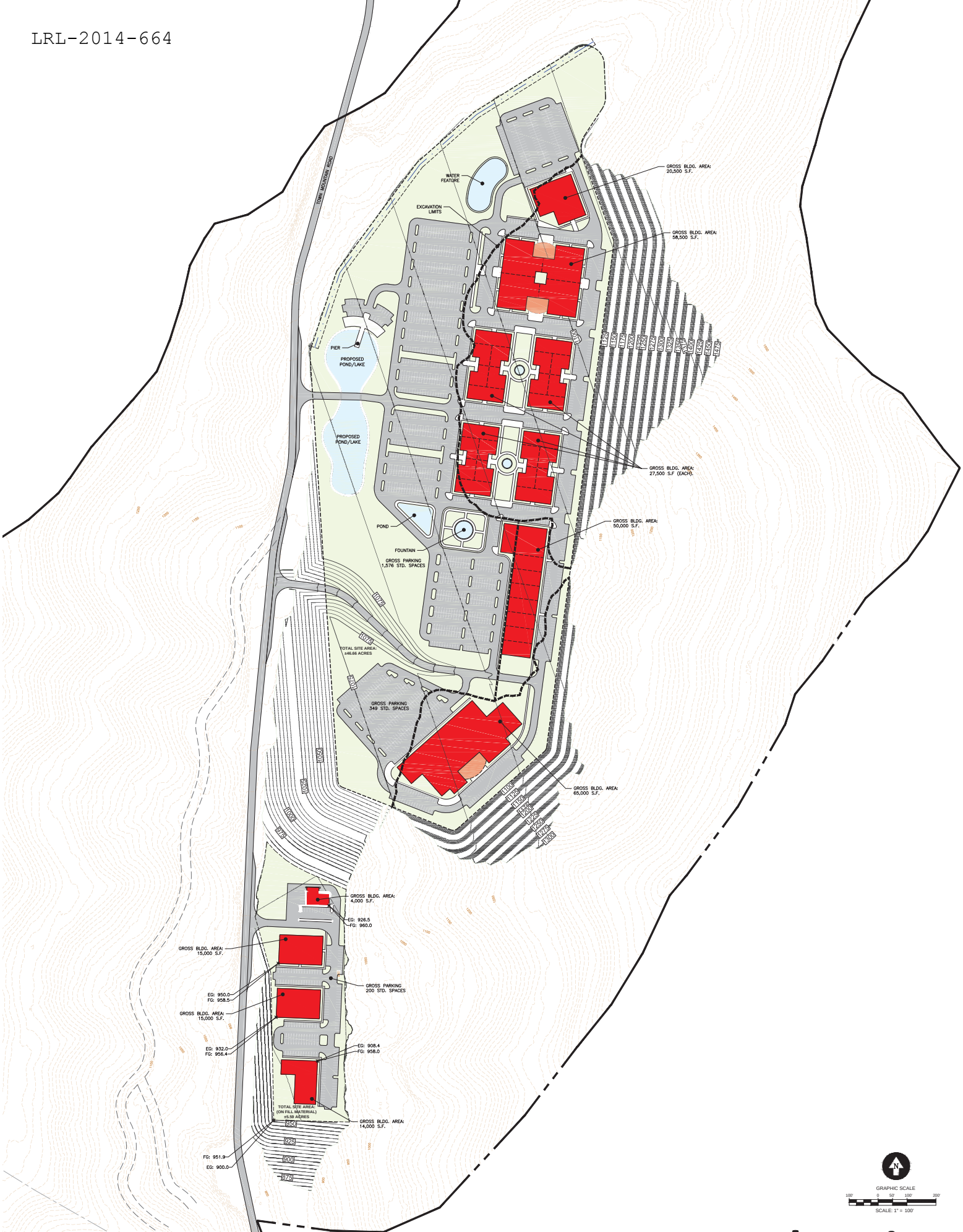
DRAWN BY: D.HANNAH

ALMA LAND COMPANY
750 TOWN MOUNTAIN ROAD
PIKEVILLE, KY. 41501

STUDY AREA MAP
FERGUSON CREEK

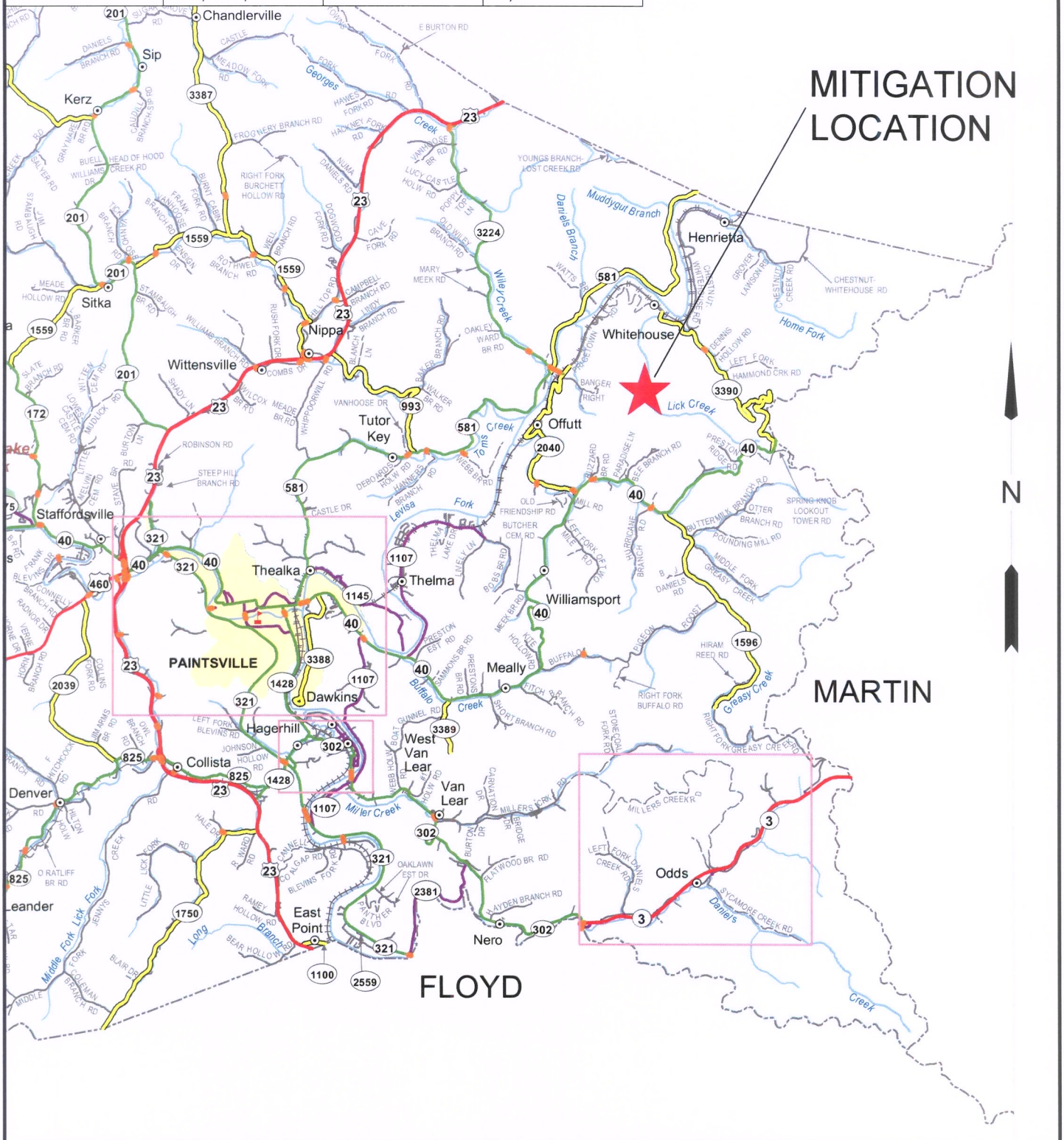
SUMMIT ENGINEERING,INC.
131 Summit Drive
Pikeville, Ky. 41501
(606) 432-1447
Lexington,KY ● Hazard,KY ● Big Rock,VA

LRL-2014-664



Ferguson Creek Project
Conceptual Site Rendering

Drawn By:	Date:	Scale:	Contour Interval:
CFM	04/28/2015	1" = 2 Mi.	N/A



ALMA LAND COMPANY

FERGUSON CREEK DEVELOPMENT

Compensatory Mitigation Plan

MITIGATION LOCATION MAP

Appendix B

Prepared By:
P&A ENGINEERS & CONSULTANTS
PO Box 279 Louisa, KY 41230

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